

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

KAREN J. WILSON,

Plaintiff,

v.

JESSE R. CRUZ, *et al.*,

Defendants.

* * *

2:12-cv-00051-LDG -VCF

ORDER

Before the court is plaintiff Karen J. Wilson's Motion To Substitute Defendants. (#36). No Opposition has been filed.

Background

Plaintiff filed her complaint on January 11, 2012, asserting claims for negligence, negligence *per se*, vicarious liability, and wrongful death against several named and unnamed defendants. (#1). Plaintiff named defendants Doe I-X and Roe Corporation XI-XX, and asserted that she sued these defendants by fictitious names, because she believes that these defendants "are responsible, in some way, for the events alleged in this complaint and proximately caused damage to [p]laintiff as alleged." *Id.* Plaintiff also stated that she will "ask for leave from this court to amend the [c]omplaint when the true names and capacities of" these defendants are ascertained. *Id.*

On March 12, 2012, plaintiff filed a notice of voluntary dismissal of claims against certain defendants (#20), and defendant Jesse R. Cruz filed an answer (#21) to plaintiff's complaint. On March 22, 2012, plaintiff filed her first amended complaint, naming additional defendants. (#24). On March 27, 2012, defendant Clem-Trans, Inc. filed its answer to plaintiff's complaint. (#25). On April 4, 2012, defendant Jose E. Castro filed his answer to plaintiff's complaint. (#31). On April 10, 2012, defendant Clem-Trans, Inc. filed an answer to plaintiff's first amended complaint (#33), and on April 13, 2012, defendant Jesse R. Cruz filed an answer to plaintiff's first amended complaint (#35). Plaintiff filed the

1 instant motion to substitute defendants on April 16, 2012. (#36).

2 **Motion To Substitute Defendants (#36)**

3 In plaintiff's motion, she asks this court to substitute Salvador Villalobos, individually and doing
4 business as Villalobos Trucking, as a defendant in place of defendant JOHN DOE No. I, to substitute
5 Manuel A. Solorzano, individually and doing business as Manuel A. Solorzano Trucking, as a defendant
6 in place of defendant JOHN DOE No. II, to substitute Uristas Transports, Inc. as a defendant in place
7 of defendant ROE CORPORATION No. I, to substitute Mas Trucking, Inc. as a defendant in place of
8 defendant ROE CORPORATION No. II, and to substitute Matheson Postal Services, Inc. as a defendant
9 in place of defendant ROE CORPORATION No. III. (#36). Plaintiff attached her second amended
10 complaint (#36-1) to the motion, wherein she names each defendant listed above. *Id.* Plaintiff also asks
11 this court to grant her leave to file the second amended complaint. *Id.*

12 Pursuant to Federal Rule of Civil Procedure 15(a)(2), after a responsive pleading has been filed,
13 a party may amend its pleadings only by leave of court. "The court should freely give leave when
14 justice so requires" and when there is no undue delay, bad faith, or dilatory motive on the part of the
15 moving party. Fed. R. Civ. P. 15(a)(2); *Wright Incline Village General Imp. Dist.*, 597 F.Supp.2d 1191
16 (D.Nev.2009); *DCD Programs, LTD v. Leighton*, 883 F.2d 183 (9th Cir.1987). Pursuant to Local Rule
17 7-2(d), "[t]he failure of an opposing party to file points and authorities in response to any motion shall
18 constitute a consent to the granting of the motion." Here, no opposition had been filed, there is no
19 undue delay, bad faith, or dilatory motive, and the court finds that justice requires permitting plaintiff
20 to substitute the named defendants in place of the Doe and Roe defendants. *Id.*; LR 7-2(d).

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1 Accordingly, and for good cause shown,

2 IT IS ORDERED that plaintiff Karen J. Wilson's Motion To Substitute Defendants (#36) is
3 GRANTED. The Clerk of the Court shall file the plaintiff's second amended complaint (#36-1).

4 DATED this 3rd day of May, 2012.



5 **CAM FERENBACH**
6 **UNITED STATES MAGISTRATE JUDGE**